THE BOMBAY CITY CIVIL COURT ACT, 1948.

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BOMBAY ACT No. XL OF 1948.[1]

[THE BOMBAY CITY CIVIL COURT ACT, 1948.]

[*10th May 1948*]

Amended by Bom. 26 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 32 of 1954.

An Act to establish an additional Civil Court for Greater Bombay.

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay City Civil Court Act, 1948.

(*2*) It shall come into force on such date as the [2][State] Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " City Court " means the Court established under section 3 ;

(*2*) " High Court " means the High Court of Judicature at Bombay ;

(*3*) " institution fee " means the court fee payable in respect of the plaint or application by which a suit or proceeding is instituted ;

(*4*) " Small Cause Court " means the Court of Small Causes of Bombay.

(*5*) " special law " means a law applicable to a particular subject.

Constitution of City Court.

3. The [2][State] Government may, by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding ten thousand rupees in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the High Court for the relief of insolvent debtors, or

(*c*) by the High Court under any special law other than the Letters Patent, or

(*d*) by the Small Cause Court :

Provided that the [2][State] Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings [3][which are cognizable by the High Court as a court having testamentary or intestate jurisdiction or for the relief of insolvent debtors.]

Power of [2][State] Government to enhance jurisdiction of City Court.

4. Subject to the exceptions specified in section 3, the [2][State] Government may, by notification in the *Official Gazette*, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the Greater Bombay and of such value not exceeding twenty-five thousand rupees as may be specified in the notification.

Power of High Court to transfer matrimonial cases to City Court.

[4][**4A.** (*1*) Notwithstanding anything contained in any law for the time being in force, the High Court may at any stage transfer to the City Court any suit or proceeding which is cognizable by it as a Court having matrimonial jurisdiction and instituted in such Court.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 7.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This portion was substituted for the original by Bom. 26 of 1950, s. 2.

[4] This section was inserted, *ibid*, s. 3.

(2) Any suit or proceeding so transferred shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in that Court.

(3) In any such suit or proceeding institution fees shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of transfer shall be assessed by the City Court in such manner as the [1][State] Government may, after consultation with the High Court, determine by rules.]

Subordination to and superintendence by High Court.

5. The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908. V of 1908.

Appointment of Judges.

6. The [2][State] Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

7. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;

(*b*) the [2][State] Government may appoint any one of the Judges to be the principal Judge ;

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof.

Registrar.

8. (*1*) The [2][State] Government may appoint an officer to be called the Registrar of the City Court. He shall be the chief ministerial officer of the court ; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules, direct.

(*2*) The [2][State] Government may, with the previous approval of the High Court, invest the Registrar with any powers of the Judge of the City Court other than powers of trying suits and proceedings.

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

9. Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Fees for process.

10. (*1*) The High Court shall, from time to time, with the sanction of the [2][State] Government prescribe and regulate the fees to be taken for any process issued by the City Court or by any officer of such court.

(*2*) Table of the fees so prescribed shall be published in the *Official Gazette*.

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[1] The word "State" was substituted for the word "Provincial" by Bom. 9 of 1951, s. 3, Second Schedule.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Repayment of institution fee under certain circumstances.

11. (*1*) When any suit in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fee paid by the plaintiff shall be repaid to him by the court.

(*2*) The [1][State] Government may, from time to time, by order, provide for repayment of any part of the institution fee to plaintiffs in suits disposed of under such circumstances as may be specified in the order.

High Court jurisdiction barred except in certain cases.

12. Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceedings cognizable by the City Court :

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the the City Court.

Costs to be disallowed when plaintiff sues in High Court instead of in City Court.

13. If in any suit instituted in the High Court the Judge who tries it is of the opinion that it ought to have been instituted in the City Court and in such suit—

(*a*) if the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client ; or

(*b*) if the plaintiff obtains a decree for any matter of an amount or value less than the maximum amount of the pecuniary jurisdiction of the City Court, no costs shall be allowed to the plaintiff.

Allowance for fees paid in City Court in cases removed to High Court.

14. When any suit or proceeding is removed for trial to the High Court from the City Court under section 12—

(*a*) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court ;

(*b*) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein :

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the [1][State] Government, credit shall be given for the institution fee already paid in the City Court.

Appeals and limitation.

15. (*1*) An appeal shall lie to the High Court from—

(*a*) every decree passed by the Judge of the City Court, and

(*b*) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908. V of 1908.

(*2*) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order :

[2][Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.

Seal of City Court.

16. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [1][State] Government.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This proviso was inserted by Bom. 32 of 1954, s. 3.

Holidays and vacation.

17. (*1*) The Judge of the City Court, or when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(*2*) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of suits pending in High Court.

18. (*1*) All suits and proceedings cognizable by the City Court and pending in the High Court, in which issues have not been settled or evidence has not been recorded on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(*2*) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the [1][State] Government may, after consultation with the High Court, determine by rules.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.